

Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, DC 20554

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COMMUNICATIONS SECTION

In the Matter of)	
)	
Federal-State Joint Board on)	CC Docket No. 96-45
Universal Service)	
)	
Operation Communications, Inc.)	DA 98-1409
d/b/a Oncor Communications, Inc.)	
Emergency Petition for Partial Waiver)	

OPPOSITION

BellSouth Corporation, on behalf of itself and BellSouth Telecommunications, Inc. ("BellSouth"), hereby file these comments in opposition to the Emergency Petition for Partial Waiver filed by Operation Communications, Inc., d/b/a Oncor Communications, Inc. ("Oncor") requesting relief from the Commission's rules regarding Universal Service contribution requirements.¹

Oncor's Emergency Petition for Partial Waiver echoes other requests that seek to exclude or reduce a carrier's universal service contribution. Just as BellSouth opposed Affinity Corporation's Petition for Partial Waiver,² BellSouth continues to believe that the Commission should not grant this or any other waiver request seeking exclusion or reduction of a carrier's contribution level because doing so will undermine the approach the Commission has crafted to

¹ Federal-State Joint Board on Universal Service, CC Docket 96-45, *Operation Communications, Inc. d/b/a Oncor Communications, Inc. Emergency Petition for Partial Waiver, Pleading Cycle Established*, DA 98-1409 (rel. July 16, 1998). The Commission's rules regarding contribution requirements are codified at 47 C.F.R. §§ 54.703, 54.709 and 54.711.

² BellSouth's Opposition to Affinity Corporation's Petition for Partial Waiver, dated July 27, 1998.

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fund Universal Service. If all these waiver requests were granted, it would create a situation where the exceptions swallow the rule.

Oncor argues that a waiver is justified because the company is experiencing a decline in revenues, and in order to pay its universal service contributions, it will either have to “suffer a reduction in net revenues..., or increase consumer charges as needed....”³ The conditions cited by Oncor are no different than virtually every other participant in the telecommunications industry today.

The Telecommunications Act of 1996 was a catalyst for extensive changes in the telecommunications industry and a driving force for developing competition among telecommunication providers. Competition forces every provider of telecommunications services to face changing market conditions which may cause a decline or rise in revenue as compared to previous periods. The contribution mechanism for universal service never contemplated a stagnant industry. Given that revenue variation is an inherent part of the competitive environment in the telecommunications industry, changes in a company’s revenue base cannot be a basis for a waiver of the Commission’s rules. Such changes simply cannot be equated to an unanticipated change in circumstances. To permit such waivers would essentially eviscerate the rule.

As BellSouth has previously stated, if the Commission believes that its rules are not explicit enough or do not operate appropriately, as Oncor would seem to suggest, then the Commission needs to issue a further notice of proposed rulemaking to address these concerns. A rulemaking proceeding is the only appropriate mechanism to alter the Commission’s rules. The

³ See, Emergency Petition for Partial Waiver and Comments in Response to National Telephone & Communications, Inc.’s Request for Partial Waiver, (CC Docket No. 96-45), filed by Operator Communications, Inc. d/b/a Oncor Communications, Inc., July 16, 1998, p.6.

Commission should not permit its rules to be dismantled piecemeal through the waiver process.

At the same time, BellSouth encourages the Commission to take action against these petitions so that the Commission is not burdened unnecessarily by other waiver requests.

Accordingly, the Commission should deny Oncor's waiver.

Respectfully submitted,

BELLSOUTH CORPORATION

By: 

M. Robert Sutherland
Richard M. Sbaratta

Its Attorneys

Suite 1700
1155 Peachtree Street, N. E.
Atlanta, Georgia 30309-3610
(404) 249-3386

Date: July 29, 1998

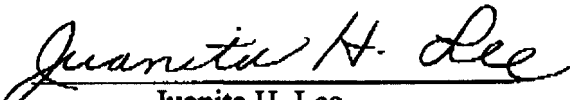
CERTIFICATE OF SERVICE

I do certify that I have this 29th day of July 1998 served the following parties to this action with a copy of the foregoing OPPOSITION by hand delivery or by placing a true and correct copy of the same in the United States mail, postage prepaid, addressed to the parties listed below.

Mitchell F. Brecher
Robert E. Stup, Jr.
Operator Communications, Inc.
D/B/A ONCOR Communications, Inc.
Fleischman and Walsh, L.L.P.
1400 Sixteenth Street, NW
Washington, DC 20036

*Sheryl Todd
Federal Communications Commission
Common Carrier Bureau
2100 M. Street, N. W., 8th Floor
Washington, D. C. 20554

*ITS
1231 20th Street, N. W.
Washington, D. C. 20036


Juanita H. Lee

*** VIA HAND DELIVERY**